

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

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**AFFYMETRIX, INC.**, a Delaware corporation,

Plaintiff/Counter-Defendant,

v.

**ILLUMINA, INC.**, a Delaware corporation,

Defendant/Counter-Plaintiff.

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Civil Action No.: 04-901 JJF

**STATEMENT RELATED TO ILLUMINA'S MOTION  
FOR SUMMARY JUDGMENT OF INEQUITABLE CONDUCT AND  
UNENFORCEABILITY OF U.S. PATENT NO. 6,646,243**

Pursuant to the Court's Memorandum Order on Summary Judgment, counsel for defendant Illumina, Inc. hereby certifies that no genuine issues of material fact exist with regard to the facts argued in support of Illumina's Motion for Summary Judgment of Inequitable Conduct and Unenforceability of U.S. Patent No. 6,646,243..

Dated: July 17, 2006

/s/ Richard K. Herrmann

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of July, 2006, I caused to be electronically filed the foregoing document, **STATEMENT RELATED TO ILLUMINA'S MOTION FOR SUMMARY JUDGMENT OF INEQUITABLE CONDUCT AND UNENFORCEABILITY OF U.S. PATENT NO. 6,646,243**, with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

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Additionally, I hereby certify that on the 17<sup>th</sup> day of July, 2006, the foregoing document was served via email and hand delivery on the above and via email and Federal Express on the following non-registered participant:

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